



County of San Diego



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December 20, 2017

Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Comment Letter-Prohibiting Wasteful Water Use Practices

Dear Ms. Townsend:

The County of San Diego ("County") appreciates the opportunity provided by the State Water Resources Control Board ("Water Board") to comment on the regulations proposed by the Water Board to permanently prohibit certain water use practices that are considered wasteful. The County has been implementing water conservation practices for many years and is supportive of efforts to conserve the State's water resources. The County, however, is concerned about the substantial fines that may be imposed for water use practices deemed wasteful in proposed Section 963 and about the lack of an option to first provide notice and an opportunity to cure.

The regulations proposed by the Water Board include a number of circumstances that could arise without the knowledge of the property owner or under circumstances where there is a reasonable difference of opinion. While the County generally agrees that watering landscapes in a manner that results in runoff onto adjacent properties or non-landscaped areas should be prohibited, there are circumstances when this can happen through no fault of the County. Users of County parks and other properties sometimes by accident and occasionally on purpose, damage County irrigation fixtures so that water is redirected onto adjacent properties. When a situation like this is discovered, the State's initial response should be to provide notice to the County and an opportunity to cure rather than immediately issuing a citation.

The County is also concerned that the currently proposed daily fine of \$500 does not reflect the severity of the water waste, and may be excessive in the absence of any initial notice or opportunity to cure.

Another concern related to the proposed fine is the apparent lack of volume of waste being identified. It appears that given the current language, a minor leak that runs onto a sidewalk would receive the same fine as a gross violator which is pouring hundreds or even thousands of gallons down the street. The regulation should be amended to accommodate various levels of violation and also to require verifiable proof via photos and meter readings or other means if a fine is administered.

Lastly, there may also be instances where property owners reasonably believe they are complying with the regulations, but the State disagrees. After large events at County parks, it is common for the County to have the sidewalks power washed to remove food, debris and other unsanitary items. This activity fits within the exception provided at Section 963(b)(2)(A) for actions necessary to address an immediate health and safety need. The proposed regulation, however, only applies "to the extent necessary" so that there is room for disagreement regarding the permissible scope of the water use. In circumstances like this, notice and an opportunity to cure rather than fines are more appropriate as there is no intention to violate the State's regulations.

The County requests that the Water Board amend Section 963 to require notice and an opportunity to cure before resorting to citations. Additionally, we request a review of the currently proposed \$500 per day fine to determine an appropriate scale and make it applicable only when truly warranted to curtail water waste.

If you should have any questions about this comment, please feel free to contact Charles Marchesano at 858-694-2987.

Sincerely,



DONALD F. STEUER

Assistant Chief Administrative Officer/Chief Operating Officer